

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

U.S. DISTRICT COURT
BRUNSWICK DIVISION

2001 OCT 15 P 2:35

EDWARD BESS, SR.,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CIVIL ACTION NO.: CV207-002

(Case No.: CR204-36)

ORDER

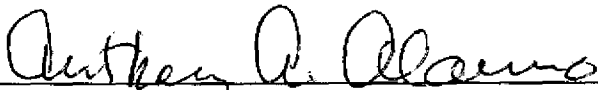
After an independent review of the record, the undersigned concurs with the recommendation of the Magistrate Judge that Bess' Motion to Vacate, Set Aside, or Correct his Sentence, filed pursuant to 28 U.S.C. § 2255, be denied. In reaching his recommendation, the Magistrate Judge reasoned Bess failed to establish his trial counsel, I. Cain Smith ("Smith"), provided ineffective assistance of counsel such that Bess was prejudiced as a result of Smith's efforts.

Bess filed Objections to the Magistrate Judge's Report and Recommendation. In his Objections, Bess asserts he pleaded guilty to the charged offenses because Smith told him he would receive a sentence of 25 years' to life imprisonment if he did not plead guilty. Bess also asserts the information Smith provided him as to his potential sentence differed from what the United States Sentencing Guidelines suggested as his potential sentence. Bess contends his guilty plea was unconstitutionally induced, in violation of his right to due process. Bess also contends Smith failed to file any pre-trial matters on his behalf, which would "more than likely outline whether the prior state

convictions served as predicate convictions under the Armed Career Criminal statute." (Doc. No. 6, p. 5).

Bess' Objections appear to be recaptulations of the assertions he set forth in his original Motion. Bess' Objections, much like his original Motion, fail to show how Bess was prejudiced as a result of any advice Smith may have provided to him. For the reasons set forth in the Magistrate Judge's Report and Recommendation, Bess' Objections are without merit. The Magistrate Judge's Report and Recommendation is adopted as the opinion of the Court. Bess' Motion to Vacate, Set Aside, or Correct his Sentence, filed pursuant to 28 U.S.C. § 2255, is **DENIED**. The Clerk of Court is authorized and directed to enter the appropriate judgment of dismissal.

SO ORDERED, this 15 day of October, 2007.


JUDGE, UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA